

STATE OF MICHIGAN  
DEPARTMENT OF LABOR & ECONOMIC GROWTH  
MICHIGAN TAX TRIBUNAL

***TRIBUNAL NOTICE 2005-9 (Modifying Tribunal Notice 2004-8)***  
**Extensions of Time; Notice of Valuation Disclosure and Prehearing  
Statement Due Dates; Good Cause Shown; Rescheduling.**  
***Issued:*** December 16, 2005

2005-9 EXTENSIONS OF TIME; NOTICE OF VALUATION DISCLOSURE AND  
PREHEARING CONFERENCE DUE DATES; GOOD CAUSE SHOWN; RESCHEDULING.

As provided by this Tribunal Notice, parties may request and receive a maximum of two ninety-one (91) day automatic extensions. *Automatic extensions apply to both parties even though requested by only one party.*

The requirements for requesting an automatic extension are indicated below. A party or parties may request an automatic extension prior to the effective date of this Tribunal Notice by complying with these requirements.

Motions that do not comply with the requirements for requesting an automatic extension or motions requesting additional extensions or an extension of more than 91 days will be granted only on a showing of good cause, as explained in Tribunal Notice 2004-8 and this Tribunal Notice. *Extensions for good cause may only apply to one party.*

Tribunal Notice 2004-8 is modified only to the extent provided by this Tribunal Notice.

***FIRST 91-DAY AUTOMATIC EXTENSION***

The Tribunal will *automatically* grant a motion requesting a 91-day extension of time for the filing and exchange of valuation disclosures and prehearing statements provided the following criteria are met:

- The motion is filed at least 14 days before the date the valuation disclosures and prehearing statements are required to be filed and exchanged, as ordered by the Tribunal.
- The motion is the first request for extension filed in the case.
- The motion advises the Tribunal that the nonmoving party has been personally contacted and notified that the moving party was requesting an extension and would not be filing a valuation disclosure, provides the name of the person contacted, indicates when that person was contacted, and advises the Tribunal of the nonmoving party's position on the motion or, if contact was not possible, states what contact attempts were made.
- A proposed order is attached to the motion. The proposed order shall grant the extension and provide for the filing and exchange of the valuation disclosures and prehearing

statements on or before the 91<sup>st</sup> day from the date of the entry of the order unless 15 days or more of the period fall in either February or March, in which case valuation disclosures and prehearing statements must then be filed and exchanged on or before April 30.

#### *SECOND 91-DAY AUTOMATIC EXTENSION*

The Tribunal will *automatically* grant a motion requesting a second 91-day extension of time for the filing and exchange of valuation disclosures and prehearing statements provided the following criteria are met:

- The motion is filed at least 14 days before the date the valuation disclosures and prehearing statements are required to be filed and exchanged, as ordered by the Tribunal.
- The motion is the second request for extension filed in the case.
- The motion is ***EITHER*** a joint motion (i.e., a motion signed by both parties agreeing to the requested additional 91-day extension) ***OR*** a “valuation disclosure affidavit” is attached to the motion by the requesting party. The affidavit shall be signed by the party’s authorized representative or the valuation expert retained (i.e., entered into an engagement agreement, etc.) to prepare the valuation disclosure, the date the valuation expert was retained to prepare the valuation disclosure and, if signed by the authorized representative, identify the name of the valuation expert retained to prepare the valuation disclosure.
- The motion, unless joint, advises the Tribunal that the nonmoving party has been personally contacted and notified that the moving party was requesting an extension and would not be filing a valuation disclosure, provides the name of the person contacted, indicates when that person was contacted, and advises the Tribunal of the nonmoving party’s position on the motion or, if contact was not possible, states what contact attempts were made.
- A proposed order is attached to the motion. The proposed order shall grant the extension and provide for the filing and exchange of the valuation disclosures and prehearing statements on or before the 91<sup>st</sup> day from the date of the entry of the order unless 15 days or more of the period fall in either February or March, in which case valuation disclosures and prehearing statements must then be filed and exchanged on or before April 30.

#### *FOR-CAUSE EXTENSION*

*(Includes motions that do not comply with the requirements for requesting an automatic extension or motions requesting additional extensions or an extension of more than 91 days)*

The Tribunal may grant any motion that does not comply with the requirements for requesting an automatic extension or any motion requesting an additional extension of time for the filing and exchange of valuation disclosures and prehearing statements or an extension of more than 91 days provided the following criteria are met:

- The motion is either filed at least 14 days before the date the valuation disclosures and prehearing statements are required to be filed and exchanged, as ordered by the Tribunal, or explains why the motion was not filed sooner.
- The motion advises the Tribunal that the nonmoving party has been personally contacted and notified that the moving party was requesting an extension and would not be filing a valuation disclosure, provides the name of the person contacted, indicates when that person was contacted, and advises the Tribunal of the nonmoving party's position on the motion or, if contact was not possible, states what contact attempts were made.
- The motion proposes new dates for the filing and exchange of valuation disclosures and prehearing statements and explains whether the nonmoving party concurs with the proposed dates.
- A proposed order is attached to the motion. The proposed order shall grant the extension and provide a space for the Tribunal to indicate the date by which the valuation disclosures and prehearing statements shall be filed and exchanged.
- The motion demonstrates good cause, as discussed in Tribunal Notice 2004-8, to justify the granting of an extension. The motion must address, if applicable, the length of the requested extension, the reasons justifying the length of the requested extension, whether other extensions have been granted, and the reasons explaining why prior extensions were inadequate. Generally, good cause cannot be demonstrated by conflicting engagements of counsel, a change of representative, or ongoing settlement negotiations without a detailed explanation of the same.

*DEFAULT FOR FAILURE TO COMPLY WITH THE REQUIREMENTS OF THE AUTOMATIC EXTENSIONS*

A party will *automatically* be placed in default after the expiration of extension if:

- The party or parties fail to file and exchange the valuation disclosure and prehearing statement on or before date the valuation disclosure and prehearing statement are due and fail to file a motion requesting an automatic or additional extension not less than 14 days before that due date.
- The party files a motion requesting an extension but fails to advise the Tribunal that the nonmoving party has been personally contacted and notified that the moving party was requesting an extension and would not be filing a valuation disclosure, fails to provide

the name of the person contacted, fails to indicate when that person was contacted, and fails to advise the Tribunal of the nonmoving party's position on the motion or, if contact was not possible, fails to explain what contact attempts were made.

- The party files a second motion for a 91-day extension but fails to attach the required affidavit to the motion.
- The party or parties file a motion for an extension but fails to attach a proposed order to the motion.

If a party is *automatically* placed in default, the case will be scheduled for a date certain prehearing and the defaulted party will be required to show cause why the appeal should not be dismissed or scheduled for default hearing, as provided by TTR 247.

*DEFAULT FOR FAILURE TO COMPLY WITH THE REQUIREMENTS OF FOR CAUSE EXTENSIONS*

A party will *automatically* be placed in default after the expiration of an extension granted "for cause" if:

- The party or parties fail to file and exchange the valuation disclosure and prehearing statement, as required by the order granting the extension, and fail to file a motion requesting another extension before the date the valuation disclosures and prehearing statements are required to be filed and exchanged, as indicated herein.
- The party files a motion requesting an extension but fails to advise the Tribunal that the nonmoving party has been personally contacted and notified that the moving party was requesting an extension and would not be filing a valuation disclosure, fails to provide the name of the person contacted, fails to indicate when that person was contacted, and fails to advise the Tribunal of the nonmoving party's position on the motion or, if contact was not possible, fails to explain what contact attempts were made.
- The party or parties file a motion requesting an extension but fail to provide proposed new dates for the filing and exchange of valuation disclosures and prehearing statements and fail to explain whether the nonmoving party agrees with the proposed dates.
- The party or parties file a motion requesting an extension but fail to show good cause to justify the granting of the extension.
- The party or parties file a motion requesting an extension but fail to attach a proposed order to the motion for the extension.

If a party is *automatically* placed in default, the case will be scheduled for a date certain prehearing and the defaulted party will be required to show cause why the appeal should not be dismissed or scheduled for default hearing, as provided by TTR 247.

***This Tribunal Notice will take effect January 1, 2006.***